# JOURNAL NO. 118

APERTURA DE LA SESION

*Se abre la sesión a las 5:55 p.m. ocupando el estrado el Presidente, Hon. Claro M. Recto.*

EL PRESIDENTE: Se abre la sesión.

DISPENSACION DE LA LECTURA DE LA
LISTA Y DEL ACTA

SR. MARAMARA: Señor Presidente.

EL PRESIDENTE: Señor Delegado.

SR. MARAMARA: Pido que se dispense la lectura de la lista y del acta y que ésta se dé por aprobada.

EL PRESIDENTE: ¿Tiene la Asamblea alguna objeción a la moción? (*Silencio*.) La Mesa no oye ninguna. Queda aprobada.

DESPACHO DE LOS ASUNTOS QUE ESTAN
SOBRE LA MESA DEL PRESIDENTE

EL PRESIDENTE: Léanse los documentos recibidos.

EL SECRETARIO:

PETICIONES

> Resolution of the Municipal Council of Malabon, Rizal. adhering to the precept submitted by Delegate Ortega, prohibiting the entail of big estates in a few hands. (P. No. 201).

THE PRESIDENT: To the Sponsorship Committee.

> Resolution of the Municipal Council of Malabon, Rizal, requesting the adoption of a constitutional precept granting more autonomy to municipal governments. (P. No. 202).

THE PRESIDENT: To the Sponsorship Committee.

CONTINUACION DE LA DISCUSION DEL
PROYECTO DE CONSTITUCION

EL PRESIDENTE: Está en orden la continuación de la consideración del Proyecto de Constitucion.

SR. ROMUALDEZ: El Delegado Ventura va a hablar.

DISCURSO DEL SR. VENTURA

MR. VENTURA: Mr. President and Gentlemen of the Convention:

The issue to be determined by this august Body is whether we should have a Court of Appeals. I should like to avail myself of the portion of the argument of Dr. Dr. Jose P. Laurel, Delegate from Batangas, which appears on page 17 of his memorandum on the burden of my argument. This reads as follows:

> "If we have to accept the introduction of intermediate appellate courts in the Islands, we should then choose that system which would give said courts final appellate jurisdiction over all cases cognizable by them, but at the same time retaining the supervisory authority of the Supreme Court over any or all of the decisions of said courts cither by way of certiorari or by an order of transfer. For it is essential to the stability of the state that there be one ultimate and controlling court whose opinion will have binding force upon all inferior courts. This will assure more harmony and coordination in the final judgment of our courts of justice and thus help foster popular confidence in the wisdom and probity of our judges."

Gentlemen of the Convention, this is a clear proof that the Delegate from Batangas is not altogether against the establishment of a Court of Appeals in our country because he himself admits and suggests that such a court be established in this country. He himself admitted last night that he was one of those who advocated the creation of the intermediate court of appeals way back in 1929, which was vetoed by the Governor-General. That bill is No. 261 of the Philippine Senate, passed on November 7, 1929. He himself proposed in that bill, which was passed unanimously by both branches of the Legislature, that a Court of Appeals be established, which should have "exclusive appellate jurisdiction in all cases and special proceedings properly brought before it from Courts of First Instance and from any other tribunal from whose judgment the law shall provide an appeal to the Court of Appeals, which appellate jurisdiction shall extend to all cases and proceedings not hereby authorized to be appealed to the Supreme Court, and the judgments, orders, and decrees of the Court of Appeals shall be final in all such cases and proceedings."

In any case, says Section 3. "civil or criminal, in the Court of Appeals, it shsll be competent for the Supreme Court of the Philippine Islands, upon the petition of any party thereto, to require, by certiorari or otherwise, either before or after judgment or decree by the Court of Appeals, that the cause be certified or transferred to the Supreme Court for review and determination by it with the power and authority and with like effect as if the cause had been brought there by appeal. No judgment or decree of the Court of Appeals shall be subject to review by the Supreme Court as herein provided, unless application therefor be duly made within thirty daya after the entry of such judgment or decree."

The fundamental principle that underlies our argument for the creation of a Court of Appeals is that there be a Court of Cassation or, in other words, that the Supreme Court of the Philippine Islands should be constituted as a court where questions of law shall be determined and that the Court of Appeals shall have final decision on

questions of fact in those cases prescribed by law to come under its jurisdiction as prescribed in Senate No. 261. This was advocated by Dr. Laurel, Delegate from Batangas.

The reason for having a Court of Cassation, where questions of law shall be determined only in most cases, is to secure uniformity in the interpretation of our laws. A uniformity in our jurisprudence is absolutely necessary, as a sheet anchor of the privileges and rights of Filipino citizens and as the bulwark of the liberties of the Filipino people. Without uniformity in the decisions, we can never expect confidence in the judiciary on the part of the people. The attorneys or members of the Ear know very well that there is a great confusion in the decisions of the Courts of First Instance and of our Supreme Court, in criminal and civil cases.

I can cite many cases in defense of one side, and just as many cases in defense of the other side.

An example is the case of Valentin vs. Murciano. In Volume 3 of the Philippine Reports, it was decided, in a strict sense, that no person shall ever acquire public agricultural land unless he shows a certificate issued by the Government to him regardless of the length of time he has occupied that property. But many years later, the said Supreme Court decided that a man in possession of a public agricultural land for, say, fifty years is entitled to the possession of that property by reason of prescription.

Our Supreme Court, in the interpretation of the Land Registration Law, which is definite in its provision, says that unless a right of transfer or conveyance of property is duly registered in accordance with the Land Law, Act 496, that right is not recognized and no transfer is recognized. That was decided in the case of Tuason vs. Raymundo, Volume 34 of the Philippine Reports.

But later on, in the case of Lancy v. Yangco decided in 1930, the same issue was presented before the Supreme Court, which decided that when the party is aware of the existence of that right, that right is considered transferred. I should not like to be understood as making a reflection on the ability of the Members of our Supreme Court. These contradictions are due to the fact that decisions are made by so many divisions in the Supreme Court. Because of the enormous number of cases to be decided by the Supreme Court, as was stated by Justice Romualdez last night, 80 per cent of the time employed by the Justices goes to the examination, study and determination of questions of fact, and only about 20 per cent to the question of lav. I know this to be true. And that situation can be remedied only by making our Supreme Court have the same jurisdiction and power as the Supreme Court of the United States, where cases are taken by writ of error and questions of law alone are to be decided.

Mr. President, we should not be misunderstood in this respect as many Delegates believe that all cases shall always be appealed to the Supreme Court, and that both questions of fact and law may always be raised by the appellant. It is true, but you must remember that not all the cases will be admitted by the Supreme Court for decision when they are brought by a writ of error or by a writ of certiorari, because it will always be required that two or three Members of the Supreme Court decide whether or not the appeal of that case, certiorari or writ of error, is admissible or not; or, in ordinary parlance, the Supreme Court, through two or three Justices,

shall determine whether it accepts or refuses to allow the appeal. Not all the cases will be admitted to the Supreme Court except when a question of law merits serious consideration. The distinguished Delegate for Batangas, Dr. Laurel, harped on the argument that the Legislature should be left to establish an intermeiate court of appeals or inferior court of appeals and that we should not busy ourselves with establishing courts of appeals.

In making that contention, Delegate Laurel emphasized that the Constitutional Convention of America never thought it necessary to establish a court of appeals, leaving to Congress the power to establish the inferior courts or courts of appeals. But I say that the Constitutional Convention of America cannot be compared with our Constitutional Convention. And the conditions then existing cannot be compared with the conditions we are now confronted with. In the first place, when the Constitutional Convention of America was in session, and the Constitution was being framed, there was no judicial history which the Members could rely upon. There was no reason for providing for courts of appeals because there was no problem of congestion of cases such as we have now in our Supreme Court.

When the Supreme Court of America met for the first time in 1780, there was not a single case to be determined. The first session was dismissed for lack of work to do. But at the present time, we have 2,000 cases every year to be disposed of by our Supreme Court.

In 1801 when John Marshall took the place of Chief Justice Jay, there were only ten cases waiting in the Supreme Court docket for decision.

The Delegate from Batangas said that the advisability or wisdom of establishing courts of appeals should be left to the National Assembly. The Constitution has sufficient power to determine that question. We have been chosen by the people to lay here the foundation law of the land and to provide in that fundamental law the framework of our judicial system. I am not advocating a detailed statement of the judicial scheme of our Government but we should not wait for the National Assembly to determine the question when this august Body is composed of men able to determine that question. We have in our Convention well-known legal luminaries, who can very well determine what should be the form of our judicial department. We have men like Dr. Laurel, an authority on Constitutional Law; Delegate Romualdez, Delegate Francisco, Delegate Orense, Delegate Lim and other attorneys, members of the Bar of the Philippine Islands. There is no group more able to discuss the subject. We can never be sure that these men will be in the National Assembly and will incorporate in our statute books the same judicial system that we want to establish now.

Delegate Laurel, in his memorandum, stated that the purpose of Senate No. 261, which he advocated, is to relieve the Supreme Court of its heavy burden. I shall repeat the same argument here for establishing a Court of Appeals. The only question to be determined now is whether we shall ever have an intermediate Court of Appeals. Let us have only one for the sake of economy and simplicity. We must have a Court of Appeals to make the Supreme Court of the Philippine Islands a tribunal of cassation. This will relieve our courts and the Supreme Court of the enormous number of cases to be disposed of every year.

Delegate Laurel also said that it is bad policy to include in the draft detailed

descriptions of the inferior courts. We shall eliminate those in order to avoid that objection. But we should adhere to the fundamental principles that we should have a Court of Appeals.

If we speak of details, which Mr. Laurel does not favor, I ask him: Is not the judicial branch of the Government as co-extensive, co-equal and as important as any other Department of Government, like the Legislative and Executive branches of the Government? Why is it that in our draft we even provided that the National Assembly shall appoint a sergeant-at-arms and a clerk? We went into those details, which are absolutely unnecessary. If we consider that detailing the establishment of a court of appeals in our draft would make our Constitution voluminous, why then do we include the detail that the National Assembly shall appoint a clerk and a sergeant-at-arms? We also provide that the National Assembly shall have a journal of its proceedings. It is absolutely unnecessary to state that in the Constitution, and yet we so provide therein. But when it comes to the insertion of details about the Court of Appeals in our draft, Mr. Laurel says that such are unnecessary details. I do not see the logic of the argument.

He asks in his memorandum: Will it suit the needs of the people if we create the Court of Appeals in our draft? Why, yes, it meets a crying need of the people. is it absolutely necessary to put it in the draft now?, he asks. Why, yes, because there was a necessity of creating an intermediate Court of Appeals way back in 1929, with more reason we should provide for it now in 1935. There is no logic why it wag necessary in 1929 to create a Court of Appeals and not absolutely necessary to create the same in 1935. There are now more cases to be disposed of by the Supreme Court.

Mr. Laurel speaks of the expenses that may be incurred in the Court of Appeals. But I say that he did not have that in mind when he advocated in the Senate the creation of the intermediate Court of Appeals. He says that there is no parity between the two because the draft advocates two or more courts of appeals. I say that is not the fundamental question confronting: the Convention. The question is whether we should have a court of appeals. Wheher it should be one or two does not matter. We can improve upon the provisions of the draft. The thing is that we should have a court of appeals and make the Supreme Court a court of cassation. And I find that there are at present eleven members of the Supreme Court. Suppose we reduce the number to seven as it should be because it is preposterous to have more justices in the Philippine Islands, a small country, than in a great nation like the United States, which has nine. We should reduce the number to seven and appoint three members of the court of appeals with a salary of P13,000 each.

MR. MONTAÑO: Mr. President, will the Gentleman yield?

THE PRESIDENT: The Gentleman may yield if he so desires.

MR. VENTURA: Willingly.

MR. MONTAÑO: Does he mean to say that the purpose of establishing courts of appeals is to relieve the Supreme Court of its heavy burden of appeals coming from inferior courts?

MR. VENTURA: That is one of the reasons, but the most important and fundamental